



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/731,145	12/06/2000	Leo A. Metzger	1	8505

7590 01/16/2002

James J. Hill, Esq.
EMRICH & DITHMAR
Suite 3000
300 South Wacker Drive
Chicago, IL 60606

EXAMINER

KOVACS, ARPAD F

ART UNIT

PAPER NUMBER

3671

DATE MAILED: 01/16/2002

2

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/731,145

Applicant(s)
Metzger

Examiner
Árpád Fábián Kovács

Art Unit
3671



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Dec 6, 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 20) ☐ Other:

Art Unit: 3671

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim(s) 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1 & 6 recite the limitation "the operating height" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 1 recites the limitation "the angular position" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claims 4 & 7 recite the limitation "said first radius of curvature" in line 1 & 5 respectively. There is insufficient antecedent basis for this limitation in the claim.

Claim 1 recites the limitation "the center of said shaft" in line 7. There is insufficient antecedent basis for this limitation in the claim.

In re claim 1, the word "an improved" is indefinite.

Art Unit: 3671

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim(s) 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Jensen et al (4147016).

As best could be understood from the claims, Jensen discloses an agricultural machine having an adjustable platform (such as head ref 16) supported by the machine (such as the frame ref 12) and a control system for setting height of the platform relative to the ground (see fig 10; col 4, ln 14-40);

the control system including a sensor (38) responsive to the angular position of a shaft member around an axis (see fig 4, below the reference point 170; see col 7, ln 14-16) & generating a signal (i.e. to the valve ref 154) representative of the operating height;

the sensor arm (38) comprising an operating portion which forms a distance between the center of the shaft & where the operating portion contacts the ground which can decrease as the operating height of the platform is decreased (see fig 10; col 7, ln 14-16);

as shown on fig 4, a forward segment of the operating portion for contacting the ground is continuously curved & comprises a plurality of discrete curved portions extending adjacent one another over substantially the entire operating portion of the sensor arm (in re cl 2, 5);

Art Unit: 3671

a forward curved portion extending from a location adjacent the shaft rearwardly to a transition region and having a first curvature (the area left reference point 174), and a second curved portion rearward of the first curved portion (i.e. the forward segment of the operating portion described above) and extending from the transition region to a location adjacent of the rear end of the operational region of the sensor shaft and having a second radius of curvature greater than the first radius of curvature (see fig 4 to compare radius of the two curvatures) (in re cl 3 & 4 & 7).

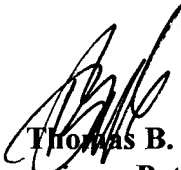
Art Unit: 3671

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Goering et al., Meiners et al., Diekhans et al., Panoushek et al., Eggenhaus, Vermeulen et al., Quick et al show closely related arts to applicant's invention.

Any inquiry concerning this communication should be directed to Árpád Fábián Kovács at telephone number (703) 308-5897, or in my absence contact Thomas B. Will whose telephone number is (703) 308-3870.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1113. The fax phone number for the Group is (703) 305-3597.


Thomas B. Will
Supervisory Patent Examiner
GROUP 3671

áfk/ÁFK
January 8, 2002